

Goudreau Corporation and Massachusetts Laborers' District Council a/w Laborers' International Union of North America, AFL-CIO.
Case 1-CA-27825

June 30, 1994

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING
AND COHEN

On April 29, 1992, the National Labor Relations Board issued its Decision and Order (307 NLRB No. 55) (not reported in Board volumes) ordering the Respondent, *inter alia*, to make whole its unit employees by making all further payments towards the discharge of arrearages in contractually required payments to the health and welfare fund, pension fund, training trust fund, legal services fund, and annuity fund and by reimbursing the unit employees for any expenses ensuing from its failure to make such payments. On July 12, 1993, the United States Court of Appeals for the First Circuit entered its judgment enforcing the Board's Order. *NLRB v. Goudreau Corp.*, No. 93-1605 (unpublished).

On September 3, 1993, the Regional Director for Region 1 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order. Subsequently, the Respondent filed an answer to the compliance specification admitting that the Respondent owed \$2,780.13, the amount set forth in the compliance specification, and stating that the Respondent had been foreclosed by Boston Financial Corporation, that it was no longer a viable entity, and that all its assets had been taken by Boston Financial for repayment of debt.

On April 25, 1994, the General Counsel filed a Motion to Transfer Proceeding to the Board and for Summary Judgment. On April 29, 1994, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent has filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

In its answer, the Respondent has admitted that it owes the amount set forth in the compliance specification, but suggests a plea of inability to pay. However, in a compliance proceeding, "the issue is the amount due and not whether [the Respondent is] able to pay." *Star Grocery Co.*, 245 NLRB 196, 197 (1979).¹ Accordingly, we find that there are no substantial and material issues that warrant a hearing, and we grant the General Counsel's Motion for Summary Judgment and order the Respondent to pay the amounts to the benefit funds set forth in the compliance specification, plus interest accrued on the amounts to the date of payments.

ORDER

The National Labor Relations Board orders that the Respondent, Goudreau Corporation, Salem, Massachusetts, its officers, agents, successors, and assigns, shall make whole the unit employees, by paying the health and welfare fund, pension fund, training trust fund, legal services fund, and annuity fund \$2,780.13, plus interest accrued to the date of payment.

Dated, Washington, D.C. June 30, 1994

William B. Gould IV, Chairman

Margaret A. Browning, Member

Charles I. Cohen, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

¹ See also *Postmasters/Same Day Plus*, 295 NLRB 1169 (1989); *Columbia Engineers International*, 268 NLRB 337 (1983).